

In re) Fair Hearing No. 8999
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Appeal of)

2. In May of 1988, at a time when her son was also receiving ANFC benefits, he received a retroactive lump sum award of Social Security benefits. The petitioner was notified by the department that the son's grant would close until August 31, 1988, due to the receipt of his lump sum social security income (about \$2,000.00). The petitioner and the boy's father were not on the grant due to their SSI income. The correctness of that notice has not been raised by the petitioners.

3. During the summer of 1988, the petitioner's daughter was born and application was made for ANFC benefits for that child alone. That application was granted and the daughter received a grant of about \$382.00 per month.

4. In December of 1988, the family moved from Burlington to Barre and their case was transferred to the Barre District Office where it was reviewed and determined that the son was an eligible household member and should have been included in the grant. (It appears that the boy should have been on the grant for some months prior to this review but the department has not, at this point, raised any overpayment issue.)

5. In its grant calculation, the department determined that the petitioner had a household of two (she and the children's father were excluded), and included as unearned income the \$166.00 monthly check received by the petitioner's son from the Social Security Administration. The inclusion of that income resulted in a decrease of the monthly ANFC amount to \$310.00.

6. The petitioner does not dispute the facts as set out above. Her argument is that her son, like herself and his father, should be excluded from the ANFC grant.

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner wants to keep her son off her ANFC grant because he has his own income through Social Security

benefits. However, the department's regulations require that:

An ANFC assistance group must include one or more eligible dependent children. In addition, the assistance group must include all siblings (including half-siblings) who live with the dependent child or children, who are also deprived of parental support and who qualify under the ANFC age criteria, as defined in policy. The parent(s) of each and every child included in the ANFC assistance group must also be included in the ANFC assistance group if he or she lives in the home with the children. W.A.M. § 2242. (Emphasis added.)

Under the department's regulations, then, all members of the petitioner's family would be initially included in the grant because each member is either a parent or sibling of the infant daughter who is the eligible dependent child.

However, the regulation further provides that:

The assistance group shall not include an individual receiving benefits under the SSI/AABD Program. Income and resources of a SSI/AABD recipient shall be excluded from consideration in determining income and resources for the ANFC group. W.A.M. § 2242.

As the dependent child's parents both receive SSI, they are not included in the ANFC group even though they are the parents of the dependent child. The proper persons to be included in this family's assistance group under the regulations are the petitioner's daughter and the son. The son's Social Security benefits, unlike the parents SSI benefits, do not exclude him from the ANFC group and are used to determine income and resources. As such, the department's actions adding the boy to the ANFC grant and counting his income are in compliance with the department's

regulations and its decision must be upheld. 3 V.S.A. §
3091(d).

FOOTNOTES

¹It appears that their daughter may also be eligible for dependent Social Security benefits and the department has encouraged her to apply.

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